

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

RAVALLI COUNTY REPUBLICAN
CENTRAL COMITEE, GALLATIN
COUNTY REPUBLICAN CENTRAL
COMMITTEE, SANDERS COUNTY
REPUBLICAN CENTRAL
COMMITTEE, DAWSON COUNTY
REPUBLICAN CENTRAL
COMMITTEE, STILLWATER
COUNTY REPUBLICAN CENTRAL
COMMITTEE, RICHLAND COUNTY
REPUBLICAN CENTRAL
COMMITTEE, CARBON COUNTY
REPUBLICAN CENTRAL
COMMITTEE, FLATHEAD
COUNTY REPUBLICAN CENTRAL
COMMITTEE, MADISON COUNTY
REPUBLICAN CENTRAL
COMMITTEE, BIG HORN COUNTY
REPUBLICAN DENTRAL
COMMITTEE, MONTANA
REPUBLICAN PARTY

Plaintiffs,

v.

LINDA McCULLOCH, in her official
capacity as Montana's Secretary of
State, *et al.*,

Defendants.

CV-14-58-H-BMM

ORDER

Plaintiff Montana Republican Party (the “Party”) moved to dismiss its action in this matter without prejudice and with no award of fees or costs pursuant to Rule 41(a)(2). The State has indicated that it does not object to dismissing the Party without fees and costs *at this time.* (Doc. 136.) The Party recognizes that Federal Rule of Civil Procedure Rule 41(d) allows the Court to award costs if the Party files a future action based on or including the same claim against the same defendants. (Doc. 139 at 2.)

The Central Committee Plaintiffs object to the State’s request to reserve their right to seek fees and costs from Central Committee Plaintiffs. Central Committee Plaintiffs have filed a motion to dismiss with prejudice. The State has not demonstrated that it should be entitled to fees and costs from Central Committee Plaintiffs at this time.

A court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result. *Smith v. Lenches*, 263 F.3d 972, 976 (9th Cir. 2001). Defendants have not asserted any legal prejudice. The Court reserves the ability to award costs if the Party files a future action based on or including the State as a defendant.

IT IS ORDERED that the Party's Rule 41(a)(2) Motion to Dismiss

Plaintiff State Republican Party of Montana's Action Without Prejudice (Doc. 134)

is **GRANTED**. The Clerk of Court is directed to enter Judgment accordingly.

DATED this 2nd day of May, 2016.

A handwritten signature in blue ink that reads "Brian Morris".

Brian Morris
United States District Court Judge